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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,673	09/11/2003	Rick McWilliams	33071	7575
7590 12/23/2004				
Hovey Williams LLP Suite 400 2405 Grand Blvd. Kansas City, MO 64108			EXAMINER FINEMAN, LEE A	
			ART UNIT 2872	PAPER NUMBER

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/660,673

Applicant(s)

MCWILLIAMS, RICK

Examiner

Lee Fineman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/11/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 3 is objected to because of the following informalities: In line 3, the limitation “the object” lacks antecedent basis. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Mase, Japanese Patent Publication No. JP09005639A.

Mase discloses in figs 1 and 23 a telescope operable to audibly convey information relating to a selected one of a plurality of celestial bodies (see machine translation sections [0004]-[0014]), the telescope comprising a telescopic tube (1-7 or 100) operable to optically magnify the selected celestial body; a processor (21 or 111) operable to generate an audio signal (see machine translation section [0009]); a memory device (22 or 112) storing a database (60,61) operable to contain information relating to the plurality of celestial bodies and accessible by the processor (see machine translation section [0009]); an audio device (28, 120), which is a

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speaker, operable to convert the audio signal into audible speech, thereby audibly conveying the information in the database relating to the selected celestial body (see machine translation sections [0006]-[0014]); an enclosure housing the processor, the memory device and the audio device (see figs. 1, 3 and 23); an orientation sensor (12 or 105 and 14 or 106) operable to determine an orientation of the tube in order to assist the processor in matching the object with the celestial body (see machine translation sections [0005]-[0006]); wherein the processor (21 or 111) is further operable to generate a video signal (see machine translation section [0009]) in order to visually convey the information relating to the selected celestial body and further including a display (32 or 118) operable to convert the video signal into graphics (see machine translation section [0009]); wherein the display and the speaker convey substantially identical information (see machine translation section [00013], in so far as at least the name of the celestial body is substantially identical in the “description of the celestial body”); wherein the display and the speaker convey substantially different information (see machine translation section [00016], in at least so far as graphics of the celestial body is substantially different from spoken words).

4. Claims 1-10, 13-14, 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lemp, III, U.S. Patent No. 6,570,506 B2.

Regarding claims 1-7, 13-14, and 16-20, Lemp, III discloses in figs 1-5 a telescope operable to audibly convey information relating to a selected one of a plurality of celestial bodies (column 2, lines 11-14), the telescope comprising a telescopic tube (10 and column 6, lines 51-55) operable to optically magnify the selected celestial body; a processor (52) operable to

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generate an audio signal (column 12, lines 10-30); a memory device storing a database (62) operable to contain information relating to the plurality of celestial bodies and accessible by the processor (column 9, line 64-column 10, line 5); an audio device (column 12, line 29), which is a speaker, operable to convert the audio signal into audible speech, thereby audibly conveying the information in the database relating to the selected celestial body (column 12, lines 10-30); an enclosure (30) integral to the telescope housing the processor, the memory device, the audio device, orientation sensor and display (figs. 2 and 3 and column 12, line 34); an orientation sensor (54, 56) operable to determine an orientation of the tube in order to assist the processor in matching the object with the celestial body (column 9, lines 5-10); wherein the processor (52) is further operable to generate a video signal (column 10, lines 6-11 or column 11, lines 31-34) in order to visually convey the information relating to the selected celestial body and further including a display (36) operable to convert the video signal into graphics (column 10, lines 6-11, column 11, lines 31-34 or column 12, lines 32-35); wherein the display and the speaker convey substantially identical information (column 12, lines 10-36, in so far as at least the name of the celestial body is substantially identical); wherein the display and the speaker convey substantially different information (column 12, lines 10-36, in at least so far as graphics of the celestial body is substantially different from spoken words).

Regarding claims 8-10, Lemp, III further includes a base operable to support the tube, a cradle attached to the base and operable to movably secure the tube to the base, and a drive mechanism operable to move the cradle with respect to the base (column 7, lines 5-9); wherein the processor is further operable to align the tube with the selected celestial body using the drive

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mechanism (column 7, lines 9-12); and a remote control (180) operable to facilitate a user providing the processor with the telescope's location (column 9, lines 57-63).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-10, 13-14 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mase in view of Lemp, III.

Regarding claims 8 and 9, Mase further includes a base (10 or 104a) operable to support the tube (figs. 1 and 23), a cradle (13 or 104) attached to the base and operable to movably secure the tube to the base (figs. 1 and 23) and a remote control (in 20 or 110) operable to facilitate a user providing the processor with the telescope's location. Mase discloses the claimed invention except for a drive mechanism operable to move the cradle with respect to the base and wherein the processor is further operable to align the tube with the selected celestial body using the drive mechanism. Lemp, III teaches a telescope with a drive mechanism operable to move the cradle with respect to the base (column 7, lines 5-9); wherein the processor is further operable to align the tube with the selected celestial body using the drive mechanism (column 7, lines 9-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a processor controlled drive mechanism to the system of Mase as suggested by Lemp, III to provide more accurate, automated movement to the system.

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Regarding claims 13-14 and 16-20, Mase discloses the claimed invention except for the enclosure being integral to the telescope. Lemp, III teaches a telescope with an enclosure (30) integral to the telescope housing the processor, the memory device, the audio device, orientation sensor and display (figs. 2 and 3 and column 12, line 34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to house the processor, the memory device, the audio device, orientation sensor and display of Mase in an enclosure integral to the telescope as suggest by Lemp, III to provide a more compact device which is more portable.

7. Claims 11-12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemp, III in view of DeLuca et al., U.S. Patent No. 4,870,402.

Lemp, III discloses the claimed invention except for explicitly stating that the audible speech is produced in a selected one of a plurality of languages and using the remote control to facilitate the user picking the selected language. Electronic systems wherein audible speech is produced in a remote control selected one of a plurality of languages are very well known. For example, DeLuca et al. is a system wherein audible speech (34, see column 7, lines 45-48) is produced in a remote control selected one of a plurality of languages (abstract and column 3, lines 10-17). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Lemp, III include the well-known remote control system of selecting one of a plurality of languages to enable more people to use the system.

8. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mase in view of DeLuca et al.

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Mase discloses the claimed invention except for explicitly stating that the audible speech is produced in a selected one of a plurality of languages and using the remote control to facilitate the user picking the selected language. Electronic systems wherein audible speech is produced in a remote control selected one of a plurality of languages are very well known. For example, DeLuca et al. is a system wherein audible speech (34, see column 7, lines 45-48) is produced in a remote control selected one of a plurality of languages (abstract and column 3, lines 10-17). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Mase include the well-known remote control system of selecting one of a plurality of languages to enable more people to use the system.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mase in view of Lemp, III as applied to claim 13 above and further in view of in view of DeLuca et al.

Mase in view of Lemp, III as applied to claim 13 above disclose the claimed invention except for explicitly stating that the audible speech is produced in a selected one of a plurality of languages and using the remote control to facilitate the user picking the selected language. Electronic systems wherein audible speech is produced in a remote control selected one of a plurality of languages are very well known. For example, DeLuca et al. is a system wherein audible speech (34, see column 7, lines 45-48) is produced in a remote control selected one of a plurality of languages (abstract and column 3, lines 10-17). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Mase in view of Lemp, III include the well-known remote control system of selecting one of a plurality of languages to enable more people to use the system.



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***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mathieu, U.S Patent No. 5,489,142 and Lund et al., U.S. Patent No. 6,669,484 B1 disclose optical systems with audio output.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
LAF

December 14, 2004

  
MARK A. ROBINSON  
PRIMARY EXAMINER